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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,129	11/17/2003	Michael Jaron	HPI2590P0240US	9558
32116	7590	09/08/2005	EXAMINER	
WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661			GEHMAN, BRYON P	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

TALK

<b>Office Action Summary</b>	<b>Application No.</b> 10/713,129	<b>Applicant(s)</b> JARON ET AL.	
	<b>Examiner</b> Bryon P. Gehman	<b>Art Unit</b> 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 March 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 1, the phrase "and the like" renders the claim(s) indefinite because the claim includes elements not actually disclosed (those encompassed by "and the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

In claim 7, line 1, "the base members" lacks antecedent basis.

In claim 8, it is indefinite how a single lid member "are" nestable.

In claim 11, lines 1-2, "removable received" is ungrammatical and indefinite.

In claim 12, line 1, "said insert member" lacks antecedent basis. See also claim 13, line 2.

In claim 14, line 1, "said retaining members" lack antecedent basis from parent claim 11.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Goulette (5,220,999). Disclosed is a storage container for an annular article comprising a base member (20) having a bottom wall and an upstanding side wall defining a central area for storage of a generally annular article, the side wall being curved but having a flat section (at hinge 30), the bottom wall having an upstanding portion (at 22) for receipt of a portion of an annular article, and a lid member (12) having a top wall and a side wall defining a central area, the side wall being curved but having a flat section (at hinge 30), the base member and lid member being pivotally attached to one another.

As to claim 2, the base member and lid member engage for latching engagement with each other.

As to claim 7, the base member is inherently nestable with a similar base member.

As to claim 8, the lid member is inherently nestable with a similar lid member.

As to claim 9, the upstanding portion (22) forms a recessed portion (from 24) of the bottom wall (at 24).

As to claim 10, the recessed portion comprises two arbitrary portions positioned adjacent one another.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walton (2005/0005513) in view of Goulette. Walton discloses a storage container for a wreath comprising a base member (11) having a bottom wall and an upstanding side wall defining a central area for storage of a wreath, the side wall being curved, the bottom wall having an upstanding portion (at 20) for receipt of a portion of a wreath, and a lid member (12) having a top wall and a side wall defining a central area, the side wall being curved. Goulette discloses a storage container for an annular article wherein the base member and lid member are pivotally attached to one another along a flat section. To modify the storage container of Walton employing the pivotal flattened hinge of Goulette would have been obvious in order to facilitate keeping the two members together and to allow standing of the container on the flattened section, as suggested by Goulette.

As to claim 2, both references disclose the base member and lid member engage for latching engagement with each other.

As to claim 7, both references disclose the base member being inherently nestable with a similar base member.

As to claim 8, both references disclose the lid member being inherently nestable with a similar lid member.

As to claim 9, the upstanding portion of Walton forms a recessed portion of the bottom wall.

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As to claim 10, the recessed portion comprises two arbitrary portions positioned adjacent one another.

7. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 2 above, and further in view of Cautereels et al. (5,205,413). Cautereels et al. disclose a generally U-shaped pivotally attached latch member to secure a lid member to a base member. To modify the prior art employing a latch member such as that taught by Cautereels et al. would have been obvious in order to lockingly secure the lid member to the base member.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Stanfield (4,940,143). Stanfield discloses a storage container having foot portions (36) in the base member receivable in corresponding recess portions (37) in the lid member of another storage container. To modify the prior art employing the structure of Stanfield would have been obvious in order to facilitate orderly stacking of plural storage containers, as suggested by Stanfield.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Ellis (4,116,330). Ellis discloses an opening (24) located in a wall of a container to serve as a suspending means for the container. To modify the prior art employing the opening teaching of Ellis would have

been obvious in order to render the container suspendable from a hanging member, as suggested by Ellis.

10. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Harsin (1,684,699). Harsin discloses an insert member (H) for providing individual storage within a container for an annular article. To modify the prior art employing the insert member teaching of Harsin would have been obvious in order to provide storage for accessories for the main contents, as suggested by Harsin. To provide the partitions as removable would have been obvious in order to provide a changeable storage area.

11. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1 above, and further in view of Magee Jr. (1,036,661). Magee Jr. discloses an insert member (e) for providing individual storage within a container for an annular article. To modify the prior art employing the insert member teaching of Magee Jr. would have been obvious in order to provide storage for accessories for the main contents, as suggested by Magee Jr..

As to claim 13, a plurality of retaining members (the collars) are provided for receipt of the insert member there between.

12. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 11 above, and further in view of Bonnevey (2,695,112). Bonnevey

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discloses a storage area including spaced apart angle members (the partitions) and spaced apart channel members (the grooves). To modify the storage container of the combination further employing the partition teaching of Bonnevey would have been obvious in order to provide variable storage areas.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bryon P. Gehman  
Primary Examiner  
Art Unit 3728

BPG